
Judiciary Committee

HB 1644

Title: An act relating to reconveyances of deeds of trust.

Brief Description: Concerning reconveyances of deeds of trust.

Sponsors: Representatives Maxwell, Miloscia, Clibborn, Ormsby, Hurst, Green and Orwall.

Brief Summary of Bill

- Creates a timeframe under which a beneficiary and trustee must act to reconvey a deed of trust.
- Establishes a process for title insurance companies and insurance producers to release a deed of trust when the beneficiary and trustee have not caused a reconveyance after satisfaction of the obligation.
- Makes insurance companies and insurance producers liable to any party for damages sustained by reason of the issuance, execution, or recording of the release of a deed of trust.

Hearing Date: 2/11/09

Staff: Trudes Tango (786-7384)

Background:

Deeds of Trust

A deed of trust is a type of security interest in real property. Basically, a deed of trust is a three-party mortgage. The borrower (grantor) grants a deed creating a lien on the real property to a third party (the trustee) who holds the deed in trust as security for an obligation due to the lender (the beneficiary). The statutes establish who may act as a trustee of a deed of trust.

Reconveying a Deed of Trust

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Upon the satisfaction of the obligation and written request of the beneficiary or the person entitled to reconveyance, the trustee must reconvey the property to the person entitled. The deeds of trust statute does not specify a timeframe for reconveyance. However, unless specifically provided for otherwise, deeds of trust are subject to all the laws relating to mortgages on real property.

Under the mortgage laws, when the amount on a mortgage is paid and upon request of any person interested in the property, the mortgagee must execute an instrument in writing acknowledging that the mortgage has been satisfied. Upon request, the written instrument must be recorded in the county where the property is located.

If a mortgagee fails to acknowledge satisfaction of the mortgage within 60 days from the date of the request, the mortgagee is liable to the mortgagor for damages and reasonable attorneys' fees, to be recovered in court.

Summary of Bill:

Specific procedures are established for reconveyance of a deed of trust when the beneficiary fails to request a reconveyance or when a trustee fails to reconvey.

Within 30 days after satisfaction of the obligation secured by the deed of trust, the beneficiary must deliver a written request to the trustee requesting reconveyance. Within 30 days after the beneficiary delivers the written request to the trustee, the trustee must reconvey the property to the grantor. If the beneficiary refuses to request reconveyance, or the trustee refuses to reconvey, the beneficiary or trustee is liable to the grantor for \$500 plus actual damages incurred.

If the obligation is satisfied by a title insurance company or insurance producer and a reconveyance has not occurred within 75 days of the satisfaction, the title insurance company or insurance producer may prepare, execute, and record a release of the deed of trust upon written request of the grantor and payment of reasonable charges.

Before issuing and recording a release of the deed of trust, the title insurance company or insurance producer must first give notice to the beneficiary of record and the party to whom the payment was made. The parties that receive notice have 30 days from the date of mailing to send the title insurance company or insurance producer written objections. The notice must be sent by first-class mail and identify the deed of trust by the name of the original grantor and any successor in interest on whose behalf payment was made.

The release of the deed of trust must state on the first page that it is being executed and recorded under this particular section of law. It must also set forth:

- the name of the original beneficiary and the name of the beneficiary to whom the payment was made or on whose behalf payment was made;
- the name of the original grantor of the deed of trust;
- the recording reference;
- a recital that the obligation secured by the deed of trust has been paid in full;
- the date and amount of payment and the party that was paid;
- the date of mailing of the notice; and
- a recital that no written objections were received.

A release of the deed of trust may not be recorded before the 30-day period has expired or if a written objection has been received by the title insurance company or insurance producer from any of the parties to whom notice was sent.

The trustee, title insurance company, or insurance producer may charge a reasonable fee for services involved in a release of a deed of trust.

A title insurance company or insurance producer is liable to any party for damages that the party sustains by reason of the issuance, execution, or recording of the release. The court may award reasonable attorneys' fees to a prevailing party, except no attorneys' fees are allowed if the action is a class action.

"Insurance producer" is defined as an authorized issuer of title insurance policies of a title insurance company that is licensed in this state.

The provisions apply to all deeds of trust, whether executed before, on, or after the effective date of the act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.